

IN THE DEBTS RECOVERY TRIBUNAL-2, KERALA
AT ERNAKULAM

PRESENT: SRI.SOVAN KUMAR DASH
PRESIDING OFFICER

Dated this the 22nd day of June, 2026

SECURITIZATION APPLICATION No.929/2024

Between

1. Kabeer K,
Kottilingal House,
Punnayur,
Akalad P.O.,
Thrissur – 680 518.
2. Beevi M.K.,
Kottilingal House,
Punnayur,
Akalad P.O.,
Thrissur – 680 518.
3. Basheer K.,
Kottilingal House,
Punnayur,
Akalad P.O.,
Thrissur – 680 518.
4. Asiya,
Kottilingal House,
Punnayur,
Akalad P.O.,
Thrissur – 680 518.

...Applicants

And

The Authorized Officer,
Bank of Baroda,
City Plaza Building,
Enamavu Road,
Chavakkad,
Thrissur – 680 506.

...Defendant

This Securitization Application having been heard on 08.06.2026 in the presence of Advocate Mr. Jithendran S for the applicants and Advocate Mr. Viswanathan G for the defendant and stood over to this day for consideration, the Tribunal delivered the following:

FINAL ORDER

Challenging the securitization proceedings initiated by the defendants under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act'), the applicant/borrower has filed this SA under S.17(1) of the SARFAESI Act seeking relief to set aside the securitization proceeding.

Brief facts of the case:

2.1 The applicants along with one Mr.Faizal availed home loan of ₹15,00,000/- from the defendant bank in the year 2016 by

mortgaging the subject matter property of an extent of 4.70 Ares described in details in the SA.

2.2 It is claimed in the SA that due to sudden loss incurred by the applicant and due to illness of the third applicant the loan could not be repaid in time. Consequently, the loan was classified as NPA in the year 2023.

2.3 The applicants claim further that they received a notice from the Advocate Commissioner, demanding vacant possession of the property. The applicants obtained certified copies of proceeding under Section 14 of the SARFAESI Act from the Chief Judicial Magistrate Court, Thrissur. In the SA it is pleaded that demand notice was not served to all the applicants and also the Order passed by the CJM is not in accordance with the statutory requirements. The Authorised Officer has not sworn the affidavit in compliance with the proviso to Section 14 of the SARFAESI Act. So also the security interest is not registered in the CERSAI Portal. In absence of compliance of the statutory requirements, the applicants claim for setting aside the securitization proceeding.

3.1 The defendant filed written statement denying the averments in SA and submitted that all the statutory requirements in the securitization proceeding are duly complied. The demand

notice dated 02.01.2024 was duly served on the applicants and the guarantors. The postal acknowledgement cards are produced in this case. So also possession notice was issued in compliance of the statutory requirements. There is no illegality in any of the measures taken under the SARFAESI Act. In order to avoid repayment, the applicants have raised vexatious claim having no merit and the SA may be dismissed.

4. From the respective case of the applicants and the defendant, the following points emerge for adjudication in this case:

- (i) Whether the securitization proceedings initiated by the defendant suffer from any illegality or irregularity?
- (ii) Whether the applicants are entitled to get any relief in this case?

FINDINGS:

Point Nos.(i) and (ii):

5. During hearing, the learned counsel for the applicants confined his argument regarding non-compliance of the statutory provision contained in the proviso to Section 14 of the SARFAESI Act. The learned counsel for the applicant did not raise any contention regarding non-receipt of the demand notice. So also, no point

was raised regarding registration in CERSAI portal. It is submitted that the aggregate amount due as on the date of application is not stated by the Authorised Officer in the declaration filed in the form of affidavit which is mandatory. In absence of compliance of the statutory requirement, the securitization proceeding is illegal and hence the same may be set aside.

6. On the other hand, the learned counsel for the defendant would submit that the affidavit is filed by the Authorised Officer stating details of the loan which is part of the accompanying application under Section 14(1) of the SARFAESI Act. In paragraph 12 of the application, the aggregate amount due as on the date of application is specifically stated. No prejudice was caused to the applicant due to non-mention of the said amount in the affidavit. Hence the contention of the applicants has no force and the SA may be dismissed.

7. The defendant has produced the demand notice including the postal AD cards showing delivery of the demand notice and also the CERSAI Certificate showing registration of the security interest in the CERSAI Portal. The relevant documents regarding compliance in issuing possession notice are also produced.

8. On perusal of the application filed under section 14 of the SARFAESI Act, the amount due as on the date of application is specifically stated in paragraph 12 as ₹19,42,581.12/-. Merely because the Authorised Officer has failed to state the same in the declaration filed in the form of the affidavit, it cannot be said that the order passed by the Chief Judicial Magistrate is vitiated. The affidavit filed by the Authorised Officer is part of the application under section 14 of the SARFAESI Act which are to be read together, and such omission in the affidavit would not render the securitization proceedings illegal.

9. In a judgment of the Hon'ble High Court of Andhra Pradesh dated 18.04.2022 in Writ Petition No.3950/2022 in the case of Mogali Durga Devi & others v. Union of India & Others, similar question was raised and at paragraph 10 it is held as follows:-

"10. From the above, it is very clear that the respondent bank has clearly specified the total amount due as on 16.07.2021 including interest w.e.f. 17.07.2021, but failed to mention only about the outstanding amount due as on the date of filing of the application i.e. 27.01.2022. Mere non mentioning of the total outstanding amount due as on the date of filing of the application cannot be a ground to say that the respondent-bank has violated the mandatory requirements as provided in clauses (i) to (ix) of the

proviso to sub-section (1) of Section 14 of the SARFAESI Act and also a ground to stall the entire proceedings initiated under Section 14 of the SARFAESI Act, such as taking of physical possession of property on 09.02.2022 and on 16.02.2022.”

In view of this ratio, mere omission the aggregate amount in the affidavit on the date of filing application would not vitiate the proceeding. The applicant has failed to establish any material illegality in the Securitization proceeding to interdict and hence both the points are answered against the applicant.

Hence it is ordered:-

ORDER

10. In view of the foregoing reasons and with the above observation, the SA, being devoid of any merit, is hereby dismissed but in the circumstances without costs.

(Dictated to my steno, corrected and pronounced by me in the open Tribunal on this the 22nd day of June, 2026)

**[SOVAN KUMAR DASH]
PRESIDING OFFICER**

Documents on the part of the applicant

Annexures	Date	Particulars of documents
A1	03.09.2024	Certified copy of CMP 11461/24
A2	28.10.2024	Certified copy of Order in Crl.M.P.11461/2024 of the Chief Judicial Magistrate, Thrissur.
A3	02.01.2024	Certified copy of Demand notice.
A4	08.05.2024	Certified copy of Possession notice.
A5	16.11.2024	True copy of Advocate Commissioner notice.

Documents on the part of the defendants

Annexure	Date	Particulars of documents
D1	02.01.2024	Copy of the 13(2) Notice issued to the borrowers.
D2	-	Copy of the 13(2) Notice Postal acknowledgements from the borrowers.
D3	-	Copy of the 13(2) Notice Postal acknowledgements from the borrowers.
D4	-	Copy of the 13(2) Notice Postal acknowledgements from the borrowers.
D5	02.01.2024	Copy of 13(2) Notice issued to the guarantors.
D6	-	Copy of the 13(2) Notice Postal acknowledgements from the guarantors.

D7	-	Copy of the 13(2) Notice Postal acknowledgements from the guarantors.
D8	01.12.2016 to 13.06.2020	Copy of Statement of account.
D9	01.02.2019	Copy of letter to remit the overdues.
D10	04.06.2018	Copy of letter to remit the overdues.
D11	10.05.2024	Copy of 13(4) paper publication in Malayalam with Original (Mangalam Daily)
D12	10.05.2024	Copy of 13(4) paper publication in English with Original. (THE HINDU KERALA Daily)
D13		Copy of affixture photo affixture
D14	-	CERSAI Registration Certificate

PRESIDING OFFICER

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FINAL ORDER